

Appendix G: Compliance Triggers and Remedial Action

	Trigger	Action	Remedy
Legal Action			
	Recipient breaches " any " covenant, representation, warranty or other provision of our Agreements	Claim a Default	Require immediate repayment, proceed to enforce all rights available to the Department: <i>Forbearance, Charge Off, Foreclose, Charge Late Fees, Increase Interest Rate, Terminate Transaction, File Judgments, Clawback, etc.</i>
Discretionary Decisions			
	Late Payments >90 Days	Escalate to Management	Management discretion to charge late fee-contact client continue billing
	Late Payments >180 Days	Escalate to Management	Charge Off, Transfer to Special Assets, Work with AG on legal remedy; Management has discretion not to Charge Off account based on case-by-case circumstances and must document via Approval Memo why not Charging Off (see legal remedies)
	Upcoming Reporting Date & <60 Days past due	Tickler/Reminder E-mails	Notifies client before something comes due, or once something is late.
	>60 Days Past Due for any reporting	Escalate Issue to Finance Specialist	Contact client to get item, waive requirement for item (in writing), continue to monitor
	Failed Employment Goals	Escalate to Finance Specialist and Management	Move forward with clawback or depending on company and economic conditions the employment goals may be modified (see legal remedies)
	Poor Annual Financial Review	Escalate to Management	Continue to monitor; possible downgrade of risk rating; transfer to Special Assets, contact client, financial institution

Tax Credits			
Not Eligible	Applicant applies for certification of tax credit but does not meet statutory requirements	Do not certify as eligible for tax credit	The tax credits are non-discretionary. If the business does not meet the statutory requirements of the program, the Department may not certify them as eligible. For the One Maryland and Job Creation Tax Credits, the Department urges the applicant to apply for preliminary certification to identify any potential obstacles to final certification. We work with the company to identify and overcome any issues that would preclude the company from qualifying.
Non-compliance	Applicant is certified as eligible for tax credits but does not maintain the positions or investment.	Credits are recaptured; business may not use the credits during the carry forward period.	Under the Job Creation Tax Credit, the business must maintain the credits for three years or recapture some or all the credits. An independent CPA certifies at the end of the recapture period, whether any recapture is due the state. Under the One Maryland Tax Credit, if the business falls below a certain threshold of jobs, the business may not use the credit in that credit year. However, when its employment increases over the threshold, it may begin taking the credit again. The threshold was originally 25 jobs, but in recognition of the struggling economy, this was reduced to 10 jobs, if the business had maintained 25 jobs for at least five years. Under the Biotechnology Investment Incentive Tax Credit, if the investor that received a credit sells or transfers his ownership interest in the qualified Maryland Biotechnology Company (QMBC) or if the QMBC ceases to operate as an active business with its headquarters in Maryland within 2 years from the tax year they claimed the credit, they are required to recapture some or all of the credit.
In general, the tax credits are non-discretionary. If the business does not meet the statutory requirements, they will not qualify for the credits. Commerce does not have the discretion to waive the statute. However, Commerce does work with the businesses to identify issues early in the process. In addition, changes have been made to the programs through legislation that have made it easier to meet the program requirements			

